



STATE OF WASHINGTON
DEPARTMENT OF HEALTH

June 4, 2009

Bill Osmunson DDS, MPH
Aesthetic Dentistry of Bellevue
1418 112th Avenue NE, Suite 200
Bellevue, Washington 98004

Dear Dr. Osmunson:

This letter is in response to your request at the May 7, 2009 meeting of the Washington Board of Pharmacy for a response to your question about designating fluoride as a poison under chapter 69.38 RCW. RCW 69.38.020 states that "[a]ll substances regulated under chapters 15.58, 17.21, 69.04, and 69.50, and chapter 69.45 RCW are exempt from the provisions [of chapter 69.38 RCW]. Fluoride is a legend drug regulated under chapter 69.41 RCW. RCW 69.41.010 defines a "legend drug" as drugs "which are required by state law or regulation of the state board of pharmacy to be dispensed on prescription only or are restricted to use by practitioners only." In WAC 246-883-020 (2), the Board specified that "legend drugs are drugs which have been designated as legend drugs under federal law and are listed as such in the 2002 edition of the *Drug Topics Red Book*." Enclosed are copies of pages 169, 342, and 690 of the 2002 edition of the *Drug Topics Red Book*. Page 169 is the key to the products requiring prescription (legend drugs) and page 342 contains the fluoride products. Page 690 contains the listing of over-the-counter fluoride products, primarily toothpaste containing fluoride.

While RCW 69.41.010 restricts the dispensing of prescription drugs to practitioners, the legislature has authorized water districts to fluoridate their water supplies in RCW 57.08.012. This authority was recognized by the Washington Supreme Court in *Parkland Light & Water Company v. Tacoma-Pierce County Board of Health, et al.*, 151 Wn.2d 428 (2004). By adopting a specific statute on the fluoridation of water supplies, the legislature has superseded the more general statutes in the legend drug act requiring a practitioner to dispense fluoride. *Tunstall v. Bergeson*, 141 Wn.2d 201, 211 (2000).

For the above-stated reasons, the Board of Pharmacy will not be considering your request to designate fluoride as a poison under chapter 69.38 RCW.

Sincerely,

Susan Teil Boyer, MS, RPh, FASHP
Executive Director
Washington State Board of Pharmacy
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